

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No.: 5:22-CV-00068-BO

YOLANDA IRVING, individually and as the
natural parent and guardian of J.I., JUWAN
HARRINGTON, CYDNEEA
HARRINGTON, KENYA WALTON
individually and as the natural parent and
guardian of R.W., ZIYEL WHITLEY,
DYAMOND WHITLEY, KAMISHA
WHITLEY, and NANETTA GRANT as the
natural parent and guardian of Z.G.,

Plaintiffs,

vs.

THE CITY OF RALEIGH, Officer OMAR I.
ABDULLAH, Sergeant WILLIAM ROLFE,
Officer RISHAR PIERRE MONROE,
Officer JULIEN DAVID RATTELADE, and
Officer MEGHAN CAROLINE GAY, and
JOHN and JANE DOE Officers 1-10, in their
individual capacities,

Defendants.

**SGT. ROLFE'S AMENDED PARTIAL
MOTION TO DISMISS
(Fed. R. Civ. P. 12(b)(6))**

The Defendant Sergeant WILLIAM ROLFE respectfully moves the Court for entry of an Order dismissing certain of Plaintiff's claims against him, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.¹ More specifically, Plaintiffs' Fifth Claim, alleging a "civil conspiracy," should be dismissed for the following reasons, among others:

- Plaintiffs' civil conspiracy claims are barred by the intracorporate conspiracy doctrine. A conspiracy requires a plurality of actors and no such plurality exists when all of the Defendants are officers of the same police department.

¹ As this Court has previously held, filing a partial motion to dismiss suspends the time for the filing of answer. *Johnson v. Pope*, No. 7:13-CV-78-BO, 2013 U.S. Dist. LEXIS 6500752 (E.D.N.C. Dec. 11, 2013) ("filing a partial motion to dismiss will suspend the time to answer those claims that are not subject to the motion.").

Pursuant to Local Civil Rule 7.1, Sgt. Rolfe is submitting a memorandum of law explaining the basis for this motion in further detail.

Accordingly, Sgt. Rolfe's partial motion to dismiss should be GRANTED and the Plaintiffs' civil conspiracy claims should be DISMISSED WITH PREJUDICE.

This the 25th day of April, 2022

CROSSLEY MCINTOSH COLLIER HANLEY & EDES, PLLC

/s/ Norwood P. Blanchard, III
Norwood P. Blanchard, III
State Bar No. 26470
5002 Randall Parkway
Wilmington, NC 28403
P: 910-762-9711
F: 910-256-0310
norwood@cmclawfirm.com

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of April, 2022, I electronically filed the foregoing AMENDED PARTIAL MOTION TO DISMISS with the Clerk of Court using the CM/ECF system, which will electronically serve counsel for the following parties:

Robin L. Tatum, City Attorney
Dorothy V. Kibler, Deputy City Attorney
N.C. Bar No. 13571
P.O. Box 1949
Raleigh, NC 27602
Tel: (919) 996-6560
Fax: (919) 996-7021
Dorothy.Kibler@raleighnc.gov
ATTORNEYS FOR DEFENDANT CITY
OF RALEIGH

Micheal L. Littlejohn, Jr.
Littlejohn Law, PLLC
227 W. 4th Street, Ste B-113
Charlotte, NC 28202
Email: mll@littlejohnlaw.com
Attorneys for Plaintiffs

Abraham Rubert-Schewel, Esq.
Emily Gladden, Esq.
Tin Fulton Walker & Owen, PLLC
204 N. Person Street
Raleigh, NC 27601
Email: schewel@tinfulton.com
Email: egladded@tinfulton.com
Attorneys for Plaintiffs

RODNEY E. PETTEY
N.C. State Bar No.: 17715
rpetty@ymwlaw.com
SAMUEL G. THOMPSON, JR.
N.C. State Bar No.: 32960
bthompson@ymwlaw.com
Yates, McLamb & Weyher, LLP
Post Office Box 2889
Raleigh, North Carolina 27602
*Counsel for Officer Rishar Pierre Monroe,
Officer Julien David Rattelade and
Officer Meghan Caroline Gay*

Ian A. Mance
Elizabeth G. Simpson

Emancipate NC
P.O. Box 309
Durham, NC 27702
Email: ian@emancipatenc.com
Email: elizabeth@emancipatenc.com

Jason R. Benton, Esq.
NC State Bar No.: 27710
Parker Poe Adams & Bernstein, LLP
620 South Tryon Street, Suite 800
Charlotte, NC 28202
jasonbenton@parkerpoe.com

CROSSLEY MCINTOSH COLLIER HANLEY & EDES, PLLC

/s/ Norwood P. Blanchard, III
Norwood P. Blanchard, III